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Second Assistant to the
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December 20, 1965

CQ:adr

Charles Quaintance

U. S. v. Cook; Proceedings in State Murder Trial and
Observations Concerning Possible 241 Prosecution.

UV
10/22/65
I. State of Alabama v. Elmer Cook, et al.

From December 7 through December 10, 1965, I attended the trial of State of Alabama v. Elmer Cook, Namon O'Neal Hoggle and William Stanley Hoggle in Selma, Alabama.

Judge L. S. Moore presided at the trial. Virgis Ashworth handled the prosecution. Joe Pilcher was the defense lawyer.

Approximately 30 regular witnesses were sworn in Tuesday morning, December 7. In addition, when the Court asked those who had been subpoenaed as character witnesses to rise, over 80 men stood up. Not one of these witnesses was called, but of course the prospective jurors saw the array.

When the roll of jurors was called, I counted 83 white persons and 4 Negroes. The Judge asked the regular question for qualifying jurors; he did not ask any questions concerning literacy. He asked whether each prospective juror was a householder, free holder, or resident for one year in Dallas County. He asked whether any person had fixed opinions concerning capital punishment, circumstantial evidence, or the guilt or innocence of the defendants. In addition, Judge Moore asked whether the jurors had a fixed opinion because of bias against or for the defendants or Rev. Reeb. Solicitor Blanchard McLeod, who handled the selection of the jury for the prosecution, asked whether the jurors had an opinion concerning the inferiority of the victim such as to

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prevent them from reaching a fair verdict. McLeod made it clear that he asked this question upon the order of Attorney General Flowers. Five jurors, including Jacob Bendersky, a prominent businessman and avid segregationist, were excused for personal reasons. The State challenged 4 who had fixed opinions against capital punishment, and each challenge was accepted. The State also challenged 3 persons who had fixed opinions as to the guilt or innocence of the defendants including one person who said he was such a close friend of one of the Hoggle brothers that he could not vote for a guilty verdict. Each of these challenges was accepted. The State also challenged the 2 individuals who answered yes to the Attorney General's question. After these individuals had stated that they believed a white civil rights worker was inferior, but that they would convict the defendants if they were convinced of guilt beyond a reasonable doubt, the challenges were rejected. Both of these prospective jurors were later struck. The State struck 14 prospective jurors while the defense struck 41. Among the 12 jurors who remained, there were 2 who by their appearance indicated some red-neck qualities. One had looked openly disgusted when the question about the inferiority of civil rights workers was asked but he had made no reply. One of the jurors, Raymond B. Schiffer, is alleged to have been involved in slapping a Negro who attempted to integrate the white Roman Catholic Church in December of 1964. One of Bob Frye's neighbors told him that she saw Schiffer hit the Negro, but said she would not say that in court. Another of the jurors, Harry C. Vardeman, is a brother of Ben Vardeman, the key defense witness.

A. Opening Statements

Solicitor McLeod simply said that the State intended to prove that the 3 defendants killed Rev. Reeb; he informed the jurors that he had had a stroke and that Virgis Ashworth would try the case in his place.

Joe Pilcher stated that the case was a civil rights case, involving the right to be presumed innocent. As he launched into an attack on civil rights workers, as being ready to crucify the jury system, Ashworth's objection was sustained. Pilcher frequently made objectionable statements in his questioning of witnesses. Ashworth made the appropriate objections and Judge Moore made the appropriate ruling but Pilcher was never instructed to cease his objectionable practices.

Upon giving his statement, Pilcher revealed 2 defenses. First he states that the defendants were not involved. He stated

that the defense would prove that Namon Hoggle had been with Ben Vardeman in the Coffee Pot Cafe at the time of the attack. He said he would prove that Cook and Stanley Hoggle had been across the street at their place of business. He stated that the defense would prove that there had been 2 or 3 groups of men in the area, and that others had been guilty of the alleged assault. Pilcher did not succeed in placing Cook and Stanley Hoggle at any other place other than the place of the attack. He did have 3 witnesses directed toward proving that Namon Hoggle had been in the Coffee Pot. Pilcher's second defense was that those who did commit the assault were not guilty of murder. He indicated that there had been some intervening cause. He said that 2 doctors would show that Rev. Reeb's wound when he got to Birmingham was not the same wound diagnosed in Selma. As it turned out, Pilcher's contention of an intervening cause was based primarily on the allegation that Dr. W. B. Dinkins, the Selma physician who treated Rev. Reeb, had been negligent in his treatment. Pilcher did also argue that it was in the interest of the civil rights movement for Rev. Reeb to die. Pilcher's only evidence was a doctor's answer to a hypothetical question, tending to show that Rev. Reeb could not have stood up and walked after being clubbed so hard as autopsy showed he had been.

B. State Witnesses

1. Clark B. Olsen. (Olsen's middle name is Bird, but he wisely used his middle initial in giving his name to the jury.) Rev. Olsen stated that he arrived in Selma at about 4 p.m. on March 9, and that he ate his evening meal in Walker's Cafe between 5:30 or 6 to about 7:30 p.m. He ate with Rev. Reeb and Rev. Orloff Miller. The 3 men walked from the cafe up Washington toward the Silver Moon Cafe.

"Some men started to come at us, shouting at us. They advance at a fast walk, perhaps a brisk run. One was carrying a stick or pipe of some length. James Reeb was nearest the curb; then Miller; I was nearest to the building. Reeb was lagging behind us somewhat. One of the men swung a stick and struck Reeb on the side of the head; Rev. Miller crouched down; I ran a few steps off the curb into Selma Avenue. This man hit me a few times. My glasses came off. Then perhaps 2 or 3 of the men kicked at Reeb and Miller and then they left. I had a good view of the man

who attacked me; I was facing him as he hit me. I saw him as he came across the street; he was in front of the group. He is the man next to the lady in the red dress (Elmer Cook). I had a good view of the others but I don't know whether I would recognize them. The two men seated to the right of Mr. Cook look similar to men in the group that attacked us. As closely as I can say without positively identifying them, they were the men (William Stanley Hoggle and Namon O'Neal Hoggle). They look similar in size and in looks. The general looks, possible height, build and face characteristics are similar."

Olsen and Miller assisted Reeb to his feet. At first Reeb was incoherent. Then he was able to walk with their assistance; Olsen and Miller took Reeb to the Boynton Insurance Agency, a distance of 2 1/2 blocks, then to Burwell Infirmary, back to Boynton's for a check to be used as a deposit for admission to University Hospital, ambulance toward Birmingham, flat tire, 2nd ambulance, Birmingham hospital.

On cross examination, Rev. Olsen held up well. He did falter on a description of what medium height meant. He used that term to describe not only persons who were 5'10" but one person who was 5'6". He admitted that he had seen the pictures of Cook and the Hoggles in the newspaper before identifying their pictures for the FBI. He stated that his identification of Cook in the courtroom was based upon his actual physical appearance in the flesh. His identification was based on a "memory of a very vivid experience." Olsen placed the point of attack at the left side of the front (Washington Street) entrance to the Silver Moon.

Olsen stated that Dianne Bevel was in Mrs. Boynton's office. Joe Pilcher asked Olsen, as well as 2 other witnesses, whether she was the wife of James Bevel, one of Rev. Martin Luther King's top lieutenants. Rev. Reeb was conscious when he arrived at the Infirmary, but became unconscious when Olsen was out of the room.

Olsen did not remember that he chose a picture of William Stanley Hoggle as more closely resembling the person who attacked him. He is sure now that it was Cook who attacked him. To the question, could you be wrong about Cook, he answered, "There is no doubt in my mind." Olsen believes it was not Elmer Cook who swung the club at Rev. Reeb.

EVALUATION:

Appearance: Slight build, glasses, honest expression.

Attitude: Helpful; not "smart."

Articulateness: Too careful about pronunciation but not very offensive even to Southerners.

Character: O.K.

Credibility: Come across as making every effort to be honest.

Contribution: Strong identification of Cook; identification weakened somewhat by having seen picture in newspaper and by having identified William Stanley Hoggle as man who most closely resembled his attacker. The white persons in the audience near me demonstrated that they were impressed by Olsen's testimony and by his ability to withstand Pilcher's attack. Olsen is a much better witness than Miller. Both he and Miller had ample opportunity to review FBI statements and did well with them.

2. Orloff Miller

As Reeb and Olsen and Miller walked North on Washington Street, a group of men came from between parked cars across Washington Street shouting, "Hey you Niggers!" Miller heard the blow that struck Reeb to the pavement, but did not see it. Miller turned toward Reeb and went into a crouch where he was kicked. He suffered bruises on the right side of his forehead and on his arm. Miller said he definitely recognized Cook as having been in the lead of the attack. There were 4 or 5 attackers or more, but Miller cannot be positive about them. He believes that he saw the 2 Hoggle brothers on the day of March 9, but he cannot be sure that it was at the scene of the crime. "Their lives are at stake and I want to be honest." Miller stated that he was crouched during most of the time of the attack. Once the attack begun, he could see very little; it had been very near dark, but not night when the attack occurred. The street lights had come on as Miller smoked a cigar outside Walker's Cafe waiting for Reeb and Olsen to come out. Miller remembers talking to 2 Selma Police officers at the Infirmary, but does not remember what he said to them. "My only recollection was that I had to correct their spelling several times." Miller remembers details of time

and speed; for example, he remembers reaching Boynton Insurance Agency for the 2nd time at 9 o'clock and remembers reaching University Hospital in Birmingham at 11 o'clock. He took notes of these times. He remembers traveling 80 m.p.h. on the Interstate.

EVALUATION:

Appearance: Taller than Olsen, dark curly hair, slightly pock-marked face.

Attitude: Tendency to wise crack, especially to get in his digs at the Southern officials; his remark about the city police officers is only one example; there were perhaps a half dozen times when he made unnecessary and irritating remarks.

Articulateness: Strong voice; has a tendency to look at the questioner when questioned but at the jury when answering; I believe this gives an impression of playing to the jury.

Character: O. K.

Credibility: Obviously was attempting to tell truth; however, since he was the leader of the group of 3 white ministers (it was he who knew about Boynton Agency and who took the lead in making arrangements for the care of Rev. Reeb.) and because he did not contain his views on the southern white people, his credibility suffered.

Contribution: Fair identification of Cook as having been involved in the attack; no identification during the attack; he needs a hard talking to about his attitude before he ever testifies again.

3. Doctors

The prosecution introduced the depositions of 4 doctors. Joe Pilcher read the questions and one of his assistants, Radford, read the answers. I do not know the reason for this unusual arrangement; it was highly unsatisfactory as it made it appear the testimony did not hurt Pilcher. In addition, Pilcher was able to give different inflections to his voice in connection with the questions that helped him the most.

a. Dr. Thomas H. Allens

When Rev. Reeb was wheeled into the emergency room at

University Hospital, his face was blue. His windpipe was seriously blocked. He was insensitive to pain and had a bruise on his skull. Dr. Allens placed a tube in Rev. Reeb's windpipe and removed a noticeable amount of undigested food. This action was required as an immediate life-saving measure. The blue color disappeared in a few minutes. Frequent aspirations were required, fixed particles were recovered as late as 24 hours after Rev. Reeb was admitted to the hospital. Dr. Allens stated that the patient died as a direct result of the blow he received, but pneumonia which resulted as a result of food particles contributed to his generally bad condition.

b. Dr. James Argiers

Second resident in Neurosurgery at University Hospital. A fingertip examination of Rev. Reeb's bruises indicated a comminute fracture of the left temporal bone. An immediate tracheotomy was required. Then an incision into the temple was made and then several hundred cc's of blood were drawn off, from extradural hematoma (or blood clot). Fragments of loose bone were removed. Death was a "direct result of inflicted head wound." The blow in itself would have killed most people; the blow plus the pneumonia would kill anyone. If Rev. Reeb had lived, he would have been able to engage in no useful activity.

c. Dr. Stanley Graham

The State Toxicologist described Dr. Graham as Alabama's top neurosurgeon. Dr. Graham was much more favorable to the defense than the other doctors; he expressed the opinion that unnecessary delay had occurred and that the patient had received improper care. He stated that the morality rate for the type of injury Rev. Reeb received was 10 to 15% and indicated that proper care would have significantly increased Rev. Reeb's chances to live. In addition, Dr. Graham indicated that a patient who suffered severe contusions would not have been able to walk and would not have been conscious after receiving the blow. Dr. Graham did say that death was "attributed to blow on left side of head" plus the events that followed, (hemotoid, come, and resulting vomiting).

d. Dr. Ernest Tucker, III

Dr. Tucker is the pathologist who performed the autopsy on Rev. Reeb on March 11. The defense exhibits to this deposition includes 13 pictures of Rev. Reeb including several that showed the severity of the head injury. I don't know why these are

defense exhibits instead of prosecution exhibits. The pictures show where the blood clot was, where the linear fractures were (at least 2 fractures lines extended from the area of the left temple; one was wide enough for insertion of a scalpel; discoloration, swelling and hemorrhaging of the brain). One picture showed the collapse and discoloration of the lungs. There were still small pieces of bone in the area of the left temple at the time of the autopsy. Dr. Tucker testified that Rev. Reeb's brain substance had swollen and had oozed through its container. The brain was approximately 1/4 greater weight than normal. The middle meningeal artery, which is a major artery leading to the brain was severed. Either that lesion or the contusion to the brain was sufficient to induce unconsciousness; because both occurred, unconsciousness would have taken place rapidly. Dr. Tucker stated that compound, comminuted fractures could have been felt through the fingertip by a trained physician (this question was asked, because Dr. Dinkins was later to testify he could not tell whether there was a fracture when he examined Rev. Reeb). Dr. Tucker stated it was impossible to tell whether Rev. Reeb suffered one or more blows to the side of his head.

4. Mr. Johnson

State Toxicologist who was present at the autopsy. Mr. Johnson described in laymen's language the injuries that Rev. Reeb suffered, describing the course of the fractures and the damage to the brain. He said that penetration of the bone into the brain was as deep as 1/2 inch. He stated that the injury was severe, compatible with life; by this he explained that he meant automobile accidents can cause more severe damage, but for a person who has any chance to live, the injury Rev. Reeb suffered was a severe injury. He stated that if the injury was untreated it meant "almost certain death." With adequate treatment, he said that 1 of 2 persons could survive. On cross examination he stated that he would not dispute Dr. Graham in his estimation that 85 to 90% of the people suffering such a blow could live. Upon questioning by Judge Moore, Mr. Johnson stated that the injury was dangerous.

Two cases in the Southern Report indicate that if a wound is dangerous it is irrelevant whether the wound has been treated properly. Bailey v. State, 113 So. 830; Warren v. State, 25 So.2d 51.

5. Dr. W. B. Dinkins

(Direct examination by Blanchard McLeod) Dr. Dinkins ordered an X-ray of Rev. Reeb, but it was not good enough to read. He thinks the X-ray may have been thrown away, even though this is not normal hospital practice. Pilcher, of course, was trying to intimate that Rev. Reeb was not seriously hurt when he first came to the Infirmary. Rev. Reeb's condition began to change. Dr. Dinkins could not tell by a fingertip examination whether Rev. Reeb's skull was fractured. He says that you cannot tell the difference between a skull fracture and a bruise by fingertip examination. The decision to send Rev. Reeb to Birmingham was "based on clinical signs." Dr. Dinkins never saw Rev. Reeb conscious. When he first saw the patient, about 8:30 p.m., he had no pupillary reaction (i.e. no evidence of pressure on the area of the brain that controls the optic nerve). Dr. Dinkins noticed a change in pupillary action at about 8:40. It was at that time he confirmed his preliminary diagnosis of cerebral concussion and contusion. Dr. Dinkins was in the first ambulance with Rev. Reeb but rode in his personal car behind the second ambulance, the one that actually did take Rev. Reeb to Birmingham. Dr. Dinkins said he did instruct the ambulance driver to put Rev. Reeb on his side, but he did not know whether that was done, and he gave no other instructions for the care of Rev. Reeb, except for placing ice pack on his head.

Good Samaritan refuses to say so publicly, but according to Arthur Cappel, Dr. Dinkins was barred from practicing at that hospital following the death of Jimmie Lee Jackson.

Evaluation of Medical Testimony.

Dr. Graham has the highest qualifications of the doctors whose testimony was presented; he also was the doctor whose personal feelings appear to be most favorable to the defendants. He is quick to ascribe error to Dr. Dinkins in Rev. Reeb's death, and he is willing to intimate that Rev. Reed suffered more than one blow. To fair-minded jurors, each of the doctors makes it clear that the blow to Rev. Reeb was serious. The testimony of the 2 men who were present at the autopsy is grisly and damning to the defendants. The state toxicologist does not have strong expert qualifications, but gives an understandable and graphic description of the injuries to Rev. Reeb's skull and brain. Dr. Allens is probably not a necessary witness, as his speciality is in connection with Rev. Reeb's pneumonia. Dr. Argiers is only a resident, although he is probably fairer than Dr. Graham. They

are both neurosurgeons. Dr. Graham could probably be controlled if a prosecutor desired to make proper objections to irrelevant questions. Dr. Dinkins did not come out of this trial very well. Expert testimony indicated that he should have been able to diagnose a brain fracture immediately. However, the suggestions that there was more than one attack on Rev. Reeb is so fantastic that it can be discounted. Rev. Reeb was unconscious before Dr. Dinkins ever examined him. There was wide-spread feeling in the courtroom that Dr. Dinkins should have remained with Rev. Reeb, or at least given instructions for his care, but this is irrelevant.

6. Ouida Larson

Miss Larson testified that she knows all 3 defendants and that she saw them together in the Silver Moon Cafe, where she is a waitress, on the evening of March 9, between 6:30 and 8 p.m. They entered and left together. Elmer Cook's secretary was with them. R. B. Kelly was there but not with them. They drank coffee and sat there awhile. Miss Larson did not see or hear of a fight that night.

EVALUATION: Miss Larson strengths as a witness are known from the trial of U. S. v. Eaton. She needs to be interviewed concerning whether she remembers at all what the defendants were wearing March 9. It is also possible that she might be able to help the prosecution if Edgar Stripling's competency as a witness is attacked. She has never been fully interviewed in connection with this case. She told the FBI shortly after the event that she could not remember anyone who was in the cafe.

7. Edgar Stripling

Judge Moore ruled that Stripling was mentally incompetent to testify. Title 7, Section 439 of the Alabama Code provides that persons who do not have the use of reason are not competent to testify. Stripling gave responsive answers to several questions by Judge Moore. He stated that he understood the oath he had taken, that he was sworn to tell the truth. He stated that a falsehood was "when there isn't any such of thing."

Wilson Baker testified that Stripling frequently would buy a cup of coffee and place the saucer across the table from him and talk to the saucer. Baker also stated that Stripling will shadow box with parking meters. Baker said he could not tell whether

Stripling would tell the truth or whether he would try to tell a falsehood or whether he could comprehend an oath. Baker hopes that he can have him reconfined to a mental institution. Baker would not personally give any credit to anything Stripling said.

Dr. DeBardeleben testified that he had read Stripling's Veteran Administration file. Dr. DeBardeleben is a 35-year-old general practitioner, in Selma, who specializes in internal medicine. He has had no special training in psychiatry, although he testified that he is interested in it and reads about it. He never examined Stripling. Dr. DeBardeleben is on the Board of Directors for the Dallas County Private School. The Veterans Administration records show that Stripling was a normal person until age 15 when he suffered a disease which paralyzed the lower part of his body. After 5 weeks in bed, he leaped from bed, apparently having lost the use of his reason. From 1934 to 1939 Stripling was confined upon 4 separate occasions in State Mental Institutions. He served in the military for slightly under 2 years and, according to Stripling, was discharged for rheumatoid arthritis. After the war, he was married and had a child. His wife asked for a divorce; Stripling became morbid and began to lose his sense of reality. In 1949, after Stripling had begun to yell and had jumped through a window in his house, he was sent to the Veterans Administration in Tuscaloosa. At that time his condition was diagnosed as a hebephrenic schizophrenic. The hebephrenic type of schizophrenic is characterized by silliness. The last entry in Stripling's record is dated November 2, 1959. At that time, his condition was diagnosed as that of a "residual" schizophrenic. Dr. DeBardeleben then admitted that Edgar Stripling is not completely out of touch with reality. He stated that Stripling could understand the oath, but could have difficulty knowing whether he is stating the truth.

Pete Lackeos, the owner of the Silver Moon Cafe, stated that Stripling was a sick man. He frequently talks to himself. Lackeos said that when Stripling does not drink he is o.k. However, then he stated that Stripling had once talked about people getting killed in a restaurant when nothing like that had happened. When Lackeos said that, Judge Moore said that it would not be right to ask the jury to give credence to what Stripling said.

On March 10, Stripling told the Selma Police that he saw Elmer Cook and R. B. Kelly strike some white men outside the Silver Moon Cafe on the previous day. On March 12, Stripling told the FBI that he saw Elmer Cook, R. B. Kelly and another man who looked like Duck Hoggle (Namon O'Neal Hoggle) involved

in the assault.

I do not know the federal rules on competency of witnesses, but if it is necessary, I should think we should obtain the services of a psychiatrist to determine Stripling's competency as a witness. I suppose that Stripling's condition is relevant as to what weight should be given to his testimony, but I do not know whether that is the case. If Stripling's competence or his credibility is to be an issue, it would be to our advantage to have him examined by a competent, honest Alabama psychiatrist.

8. R. B. Kelly

Kelly, upon the advice of Joe Pilcher, took the 5th amendment and refused to testify at all. Ashworth asked Judge Moore to allow Kelly to answer the questions which did not seem to be incriminating, but Judge Moore held that any questions could possibly be incriminating. Kelly, in a signed statement to both the Selma Police and to the FBI directly implicated all 3 of the defendants in the state trial. In a statement given March 10, Kelly said he saw Elmer Cook kick a man on the sidewalk outside the Silver Moon Cafe. He also stated he saw Cook and the 2 Hoggle brothers come into the cafe together shortly thereafter. Also on March 10, Kelly gave a signed statement in which he said he saw 3 men, Cook and the 2 Hoggle brothers, running to the corner of the Silver Moon Cafe. He said Cook kicked a man on the ground. I do not see how Kelly's statements could be used, except as they constitute admission. For example, Kelly does state that he went to the door of the cafe when he heard a commotion. This does place him at the scene of the crime at the time it was committed. However, the implication of Cook and the Hoggles could hardly be constructed as admissions against Kelly.

Bob Frye has heard that Kelly has stated that if the defendants in the state trial did not lay off him, he would tell everything he had already told the FBI and maybe a whole lot more. Kelly might talk if the results would be beneficial to him. Frye understands that he is not to approach Kelly, but of course is to listen to volunteered information (if right to counsel is not abused).

9. Floyd Groom

Groom gave a signed statement to the Selma City Police in which he said he saw 2 white men dressed in black clothes get out

of a bus parked by the alley between Washington and Franklin streets on Selma Avenue. These 2 white men walked west toward the Silver Moon Cafe. When they got to the corner, Groom said Elmer Cook, the Hoggle brothers, and either Ben Vardeman or R. B. Kelly (he thinks it may have been R. B. Kelly) assault some white men near the alley on Selma Avenue between Washington and Franklin streets. Groom said Cook and both Hoggles were in the Silver Moon together.

Groom is presently located at 2321 Whittemore in St. Louis. At the request of Mr. Ashworth, we located Groom and told him that Ashworth would like him to call. An FBI agent was with Groom when he made the call and later reported, as did Ashworth, that Groom denied the statements he had made. Ashworth then advised Groom not to come to the trial.

Of course, Groom could be reinterviewed. An interviewer could remind him of the penalty for giving false information or withholding information from a federal agent.

There is little doubt that Groom observed the actual attack, but that he refuses to give the correct version of the incident.

Of course, even if Groom testified to everything he has stated to the police and to the FBI his story would be subject to some discount because of the mistakes in it. On the other hand, if he told the true story, that story would be subject to impeachment on the bases of his prior statement. Nevertheless, he is a valuable witness, the only other witness besides R. B. Kelly to place Cook and both Hoggle brothers at the scene.

10. Billy Dowd Edwards

Edwards is presently located in Greenville Mississippi, where he drives a truck for the Bar Q Beverage Co. (ph. 601-332-7356).

He failed to appear for the prosecution after he had told Ashworth he would come. We had located Edwards after receiving a request to do so from Ashworth.

Edwards was sitting with R. B. Kelly in the Silver Moon Cafe around the time of the attack. In a statement given March 10, Edwards implicated Cook and the 2 Hoggles indirectly. On March 12, Edwards said that he observed Cook and Stanley Hoggle running and punching 2 or 3 individuals. Edwards informs that

on the afternoon of March 9, he was in a car with Elmer Cook and Stanley Hoggle. Edward said that Stanley Hoggle was carrying 2 revolvers and that he gave a night stick or club to Cook. Edwards also said that Cook had a pair of brass knuckles on his right hand. According to Edwards, the group was driving around Selma and Edwards was blowing a bugle at ministers and other outsiders in the streets.

11. William Stanley Hoggle

I provided Mr. Ashworth with a copy of an FBI interview by State Investigator Rufus Head and an FBI agent of William Stanley Hoggle. Hoggle put himself with his brother and Elmer Cook together from 6:30 until about 11 o'clock. He puts all 3 of them in the Silver Moon Cafe at about 7:30. He states that he was wearing khaki pants and shirt and no hat. All 3 of these admissions conflict with Stanley Hoggle's defense. Pilcher claimed that Hoggle had been at the C & C Novelty Shop, although he produced no evidence to support that contention. In addition, Pilcher had the 2 brothers separated until about 8 p.m. Finally, Pilcher had Stanley Hoggle wearing a sport jacket, sport slacks, and a sport shirt. Pilcher introduced into evidence the clothing that William Stanley Hoggle allegedly wore.

Ashworth did not use Hoggle's admissions, apparently believing that he could not use it unless Hoggle testified.

C. Defense Witnesses

1. Wilson Baker

Baker testified that the Police Department log of daily records shows the first entry concerning the Reeb attack at 7:38, March 9. Pilcher asked Baker to relate the history of events leading to the attack. When Judge Moore sustained the objection, Pilcher said he proposed to show there were motives for Reeb's death. He stated it was to the advantage of the Civil Rights workers to have Rev. Reeb die. Judge Moore sustained objections to several questions, such as whether James Bevel and Martin Luther King were in town. Baker did testify that tension was great and that there were groups all over town. Baker also stated that the Police Department was not able to protect everyone.

Pilcher attempted to use Baker to intimate that Floyd Groom had attacked the ministers. Baker mistakenly said that he had been looking for Groom since March 10 or 11 and had not been able to find him in Selma. Baker said he had no knowledge if it had been Stripling who had provided the initial identification.

EVALUATION: Baker appears to be willing to have Pilcher lead him into statements that would damage the prosecution. Pilcher was using him primarily so that he would be able to have one respectable witness.

2. General Mack Arthur Brown

Brown said that he saw 3 white men walk from Walker's Cafe to the Silver Moon Cafe and that Elmer Cook was in front of the C & C Novelty Shop during that whole time. On cross examination it developed that the 3 men Brown saw continued after reaching the Silver Moon Cafe. Brown was unwilling to admit that he had identified a picture of Stanely Hoggle as saying that he had come from the window of the C & C Novelty Shop to look into the window of Walker's Cafe.

EVALUATION:

Appearance: Tall, top knot of hair.

Attitude: Evasive, unwilling to admit any implications against the defendants.

Articulateness: Fair.

Character: Unknown.

Credibility: Certainly was not telling the truth about what he had told the FBI.

Contribution: He did see Hoggle looking into the window, but would probably not admit it; he almost certainly did not see the ministers who were involved in the attack.

3. George Hamm

Hamm spent 22 years as a Baptist Minister. This did not prevent him from lying. He claims he went to the Silver Moon

Cafe to make a telephone call to his sick mother. He left the Cafe to make his phone call and upon his return, he observed the attack from across Washington Street. Hamm said he thought the men were playing. He said that he could not recognize the men involved in the scuffle and that he did not know them, but that if he had known them he could not recognize them, because the street was so wide. Hamm said he did not see the scuffle until it was already in progress.

Pilcher used Hamm to attempt to prove that no assailants had come from across Washington Street. Hamm said he would have seen William Stanley Hoggle if he had come from across the street. Pilcher also used Hamm to place Namon O'Neal Hoggle in the Coffee Pot at the time of the assault. Hamm stated that when he came into the Coffee Pott Cafe that there was somebody on a stool with Ben Vardeman who was also sitting on a stool inside the cafe. He wouldn't say whether the man with Vardeman was either Cook or one of the Hoggle brothers, although he had identified all of them to the FBI as persons he had seen.

EVALUATION:

Appearance: Nervous

Attitude: Defensive

Articulateness: O. K.

Credibility: Hard to attack because minister; easy to ridicule
(go to Silver Moon to call sick mother.)

Contribution: An eyewitness, but refuses to tell what he knows;
only damage is that he says no one came from across street
to attack.

4. Ben Vardaman

Vardaman is a business partner of Namon O'Neal Hoggle. He is good friends with the other defendants. Bob Frye says that Vardaman and Elmer Cook were in a car theft ring together at one time, but Elmer Cook and he were acquitted when the case was tried. Vardaman identified a suit of blue work clothes as being the clothes that Namon O'Neal Hoggle had on that night. He said he saw Elmer Cook off and on. He said that Cook had on a suit and

a dress shirt. He said that he had seen Stanley Hoggle dressed in sport clothes, with a sport jacket, pants and shirt. He identified those clothes too. Vardaman said he was with O'Neal Hoggle from approximately 6 o'clock until the time he meet George Hamm. At the time when Hamm was asking him about the fight, O'Neal Hoggle was on the phone. "I am positive Namon O'Neal Hoggle was on the phone." Vardaman's story was inconsistent with Hamm's in 2 respects. Vardaman was sure it was dark by 6:30. Hamm refused to be lead by Pilcher and insisted it was just going from dusk to dark at the time of the assault. Vardaman said that he and Hoggle were sitting at a table in the restaurant not at the bar on stools and that he met Hamm at the door as Vardaman was leaving.

EVALUATION:

Appearance: Tall, dachshound face.

Attitude: Extremely cooperative with the defense.

Articulateness: Fair.

Character: One of Selma's local hoodlums but it is probably not possible to prove; jury might be mad that he took his secretary to the night club after Rev. Reeb was assaulted.

Credibility: Stanley Hoggle's statement would help, by showing that O'Neal Hoggle was with Stanley Hoggle and that Stanley Hoggle was not wearing the clothes that Vardaman said he was wearing; business and friendship ties with defendants.

Difficulties: Vardaman is the key defense witness; if he can be destroyed, the defense have little in the way of alibi.

5. Frances Bowden

Waitress at the Coffee Pot Cafe. She says that she saw Ben Vardaman and O'Neal Hoggle come into the cafe together. She sat at the table with them although she said it was a different table than Vardaman had said it was. Pilcher got Mrs. Bowden to say that the counter is only 3 feet from the door, in order to rehabilitate George Hamm. She said that Vardaman was at the end of the counter when Hamm came in the door. She said that O'Neal Hoggle did not leave the cafe. She said that when she and Vardaman left the cafe, Hoggle was talking on the telephone. She confirmed Vardaman's description of the clothing of O'Neal Hoggle and Elmer

Cook. However, the last time she saw Cook that day was about 2 p.m. (I do not believe that Vardaman stated the last time that he saw Cook that day.) Mrs. Bowden went to the Bamboo Club for dinner with Mr. Vardaman.

EVALUATION:

Appearance: Attractive 26-year-old.

Articulateness: O. K.

Character: Nice to be able to show jury that she was with Vardaman.

Difficulties: More difficult to attack her than it will be to attack Vardaman; need Stanley Hoggle's statement; neither she nor Vardaman goes so far as to say Hoggle was with them at the time of the attack; perhaps FBI could get them to admit he was away from the table for a long period of time.

6. Paul Woodson

Woodson is part-owner of the Bamboo Dinner Club. He testified that he saw all 3 defendants at the club between 8 and 9 o'clock. He described the clothes that each wore, identifying each of the 3 exhibits that Pilcher introduced as the clothing the defendants wore the night of the attack. On cross, Woodson stated that he spoke to the defendants for just a few minutes, making only routine remarks. He cannot remember any other customer who was there that night, although there were several. He knows Ben Vardaman and Frances Bowden, but did not see either of them at the Bamboo Club. They had both testified that they went to the Bamboo Club. On redirect, Woodson stated he did not recall whether he had been asked a few days after March 9 what the defendants were wearing on March 9.

EVALUATION:

Appearance: Tall, mustache.

Credibility: Heavily damaged by cross examination; it could probably be shown that the Bamboo Club is heavily dependent upon the trade of such persons as Cook and the Hoggles.

Difficulties: His lies add weight to the lies of Vardaman and Mrs. Bowden; Stanley Hoggle's statement plus the unlikelihood

that he would actually remember the clothing diminish his value to the defense.

7. Lewis Foreman

Part-owner Bamboo Dinner Club. Foreman stated that he saw Elmer Cook at the dinner club between 8 and 9 o'clock on March 9. He described Cook's clothes and identified the exhibit Pilcher had introduced as Cook's clothes. Foreman cannot remember any other customer who was at the club March 9. He does not remember seeing Ben Vardaman, Frances Bowden, O'Neal Hoggle, or Stanley Hoggle. He says Cook was by himself. He stated that the FBI had questioned him a few days after March 9 and that he had told them the same thing he was now stating as his testimony.

EVALUATION:

Appearance: Dark hair, middle-aged.

Credibility: Little likelihood that he would have remembered Cook's clothing; I do not have a copy of any statement that he made to the FBI; if there is one, it can be checked as to whether he said anything about Cook's clothing; of course, Foreman relies on customers such as Cook and the Hoggles to earn his living.

Difficulties: Same as Woodson.

8. Lt. Ralph Holmes

Holmes is a criminal investigator for the Alabama State Troopers. He interviewed Rev. Olsen and Rev. Miller on March 10 at the University Hospital in Birmingham. He stated there was a delay of an hour or an hour and a half after he sought the interview, while the ministers held a press conference. Olsen stated there were 4 white males involved in the attack. He stated that the first was approximately 40, medium height, stocky built, and wearing a light tan poplin jacket. The second was approximately the same age and size, but wearing a medium checkered or plaid shirt. He stated that identification of the subjects would be very difficult but that he might be able to identify the first person he had described. Rev. Miller described one of the attackers as a white male in his early 30's, wearing an open shirt and a tan jacket, approximately 5'10", stocky built. He could give no other descriptions.

Miller mentioned an attack on Olsen, but did not actually see the attack and did not lift his head until the attackers had left. Holmes asked the 2 ministers to return to Selma to make possible identifications, but they refused.

EVALUATION: We should ask the ministers about their refusal to return to Selma. Generally speaking, Holmes' testimony does not raise substantial doubts about the ministers' testimony.

9. John H. South

South testified that he was at Charlie Buchanan's Service Station at about 8:30 on March 9. He saw an ambulance barely moving along (approximately 10 m.p.h.) driving north. The lights were on in the back of the ambulance. South stated that it was this strange fact that caused him to follow the ambulance. They motioned for him to go around, but he did not. When the ambulance turned around and headed back towards Selma, South followed it. He asked Charlie Buchanan to call the city and county police. South asked what was the matter and when he was told there was tire trouble, he checked the tires. He could see nothing wrong with either back tire, neither a flat tire or a missing retread.

South Stated that he urged the people there to take the man in the ambulance to a hospital, but they said they were waiting for another ambulance. When the second ambulance came, South stated that he was told the red light on it would not work. South fixed the red light, but he was told that there was no need to hurry as the people in the ambulance were waiting on the doctor's car. They were at the radio station for about 30 minutes. No one was doing anything for the man in the ambulance.

On cross, Ashworth attempted to show that South intimidated the passengers in the ambulance. South insisted that he followed the ambulance because he could not understand why an injured person would be driven to Birmingham when there were hospitals in Selma. South admitted that he followed the ambulance and stayed with him until Dr. Dinkins' escort car came. He said he saw no point in following the ambulance after that.

EVALUATION: Difficult to get across to a southern white jury that the delay in waiting for the escort car was caused by fear and that John South contributed to that fear; it would probably be possible to show that the ambulance had thrown a retread; in any event, South's entire testimony is probably irrelevant

although Pilcher made a great deal of the delays in getting Rev. Reeb to the hospital in Birmingham.

10. Charles Buchanan

Buchanan operates a service station just north of radio station WGGC. He was with John South when the ambulance passed the station going north on highway 22 at about 20 - 25 miles an hour (inside the city limits). John South followed the ambulance and, a few minutes later came back and told Buchanan, "Charlie, call the police; something funny is going on." Buchanan went to the radio station and asked what was going on. He got a flash light and looked at the ambulance's tires. He looked at each tire. There was no flat and, to his knowledge, no thrown retread. He knows what a thrown retread looks like, as he has been in the tire business for several years. Buchanan offered to call a white ambulance driver but received no response. Buchanan called the sheriff's office.

On cross, Buchanan stated he stayed with the ambulance until the escort car arrived.

EVALUATION: If necessary, facts about retreads could be shown; in any event, we should investigate; however, all of Buchanan's testimony appears to be irrelevant to me; it helped Pilcher to succeed in making Dr. Dinkins and the Civil Rights Movement, rather than the defendants, the subjects of the trial.

11q Paul Bidford

Pilcher used Bidford to attempt to show that Floyd Groom was the person who attacked Rev. Reeb. Bidford testified that Groom told him he had assaulted a station wagon with 2 colored doctors and a nurse. Groom had told him that he pecked on the window of the station wagon. Bidford and Groom had been drinking in the Silver Moon Cafe. After Groom told Bidford about the assault on the station wagon, Bidford finished drinking a beer. Everyone had another round, and then Groom, Bidford, and another person went outside and stood by Bidford's car, in the second parking place on the Selma Avenue side of the Silver Moon Cafe. Bidford thought he went outside at about 7 o'clock and stayed there for 40 minutes or so and he was very unclear about the times involved. Bidford claims that FBI agents came at about 8 or 8:30 and that he told them he had not seen any trouble. He said that one of the FBI agents was wearing a tan jacket.

Ashworth attempted to demonstrate that the alleged FBI agents were in fact the assailants, relying on the tan jacket and the fact that the alleged agent showed no identification. In fact, 2 agents did interview Bidford. Ashworth made the mistake of assuming that Bidford came out of the Silver Moon Cafe before the assault on Rev. Reeb, while in fact it appears that he probably came out after the attack. The incident involving Groom and the station wagon occurred only a few minutes prior to the attack on Reeb. Bidford was probably having one of the drinks he referred to while the attack was occurring. Ashworth showed that Bidford and Groom were away from the scene for a period of time long enough for the attack to have occurred.

EVALUATION: Bidford appears to be the drunk who commonly drinks at the Silver Moon, but this would be difficult to show; he would be of no help to the defense if it could be shown that he did not leave the Silver Moon until after the attack had taken place.

D. Arguments.

Ashworth opened his argument by assuring the jury that he was confident they would make their judgment solely on the bases of the evidence. Pilcher attempted to show the weakness of the identifications and then attempted to show that the evidence indicated the assailant did not kill Rev. Reeb. He emphasized that Rev. Reeb could not have walked from the Silver Moon to Boynton Insurance Agency if he had been struck as seriously as the autopsy indicated he had. He also emphasized Dr. Dinkins' failure to care for Rev. Reeb.

Ashworth did not suggest that any of the defense witnesses had lied. Instead, he suggested that they had been mistaken or that what they said was not inconsistent with the defendant's guilt. He relied particularly on the tan jacket Bidford ascribed to an FBI agent.

After approximately an hour and a half of deliberation, the jury returned the verdict of not guilty as to each of the defendants.

II Possible Federal Prosecution

On March 10, 1965, 241 charges were lodged against Elmer Cook and William Stanley Hoggleay. They were released upon posting

bonds of \$5,000 each. On March 11, Namon O'Neal Hoggle and R. B. Kelly were arrested and then released upon posting bonds of \$5,000 each. Joseph Pilcher represented Cook and the 2 Hoggles, while John Randolph Smith represented R. B. Kelly. The arrests were based on a complaint filed March 10, 1965, charging that the 4 defendants had violated Title 18 Section 241 in that on or about March 9, 1965 they conspired to injure, oppress, or threaten, and intimidate Reeb, Olsen, and Miller from exercising rights secured to them by the Constitution and laws of the United States.

A. March of Concerned White Citizens of Alabama, March 6, 1965.

On March 6, 1965, approximately 65 white persons marched to the Dallas County Courthouse. The demonstrators were white citizens of Alabama, who protested the discrimination against Negroes in the voting process in Alabama.

Robert Frye, the resident agent for the FBI in Selma, observed that the demonstrators arrived at the courthouse at approximately 2:24 p.m. At approximately 2:25 p.m., he observed a 1954 or 1955 2-tone Chevrolet, orange and white in color, with a 1964 Alabama tag 27-6949, stopped at the corner of Alabama Avenue and Lauderdale Street, where the courthouse is located. Frye looked into the car and identified the driver as Elmer Cook. He states that the driver raced the motor and that another white male who had got out of the passenger side of the car was pouring some type of liquid into the carburetor. When Cook raised the motor, smoke poured out from under the car in large clouds, drifting across Alabama Avenue to a large crowd of Negroes who were almost obscured by the smoke. The car continued to belch smoke for a space of 5 to 10 minutes. Wilson Baker then instructed the individuals to leave the area. Frye observed Jack Deason, a local car salesman, in the back seat of the car smoking a cigar. Frye is unable to identify Stanley Hoggle as the individual who poured the liquid into the carburetor, as the smoke was too thick. However, Wilson Baker can make the identification of both Stanley Hoggle and Elmer Cook.

Asbury Middlebrooks, Deputy Sheriff of Dallas County, testified in William v. Wallace about this incident. He identified Elmer Cook and Stanley Hoggle, as having been involved in this incident. Middlebrooks obtained photographs showing Hoggle. Middlebrooks has been instructed by Henry Pitts not to give any statements about the incident to the FBI. Joe Pilcher has instructed Jack Deason not to make any statement concerning the incident,

although Deason has denied that he was involved in it.

The clerk of the auto license department at the Dallas County Courthouse states that the registration card for license No. 27-6949 shows that the license number was issued to I. J. Malone. Malone states that he traded that car into Elmer Cook of the G & C Motor Co. just before Christmas, 1964.

Wilson Baker states that he and Lt. Cotton Nichols contacted Elmer Cook regarding the assault on Rev. Reeb, prior to Rev. Reeb's death. Cook refused to give any information concerning the assault, but did discuss the incident at the courthouse on March 6. Baker states that Cook told him that knowing himself to be a hothead he tried to keep out of the racial situation; however, on Saturday, March 6, Sheriff Clark asked him to get an old car and smoke up the demonstrators at the courthouse. Cook then told Baker that he would deny ever making such a statement to Baker.

On January 24, 1965, Judge Daniel H. Thomas of the United States District Court, Southern District of Alabama, enjoined Sheriff James G. Clark and those in active concert or participation with him from interfering with orderly attempts at the Dallas County Courthouse to encourage Negroes to register to vote. Boynton v. Clark, Civil Action No. 3559-65. It appears to me that Cook's statement to Baker concerning Sheriff Clark and himself could be used as an admission against Cook.

B. Attempted March to Montgomery, March 7, 1965.

On March 7, 1965, approximately 600 persons took part in an attempt to march from Selma to Montgomery. The march was halted by State Troopers on highway 80 opposite the Lehman Buick Co.

Bob Frye states that Elmer Cook and the 2 Hoggle brothers were observed in the Lehman Buick showroom, armed with clubs. Frye is not positive he could obtain witnesses to this fact who would be willing to testify. However, both Frye and I have talked with the manager at Lehman Buick concerning his observations of the march and the dispersals by the troopers. He appears to be reasonably willing to tell the truth.

On March 17, 1965, Judge Frank M. Johnson, United States District Judge, Middle District of Alabama, stated that in dispersing

the attempted march on March 7, the State Troopers had deprived the marchers of their federal right of assembly to petition for a redress of grievances. This statement indicates that there was a federal right to conduct the march that was attempted on March 7.

I recommend that we request the FBI to develop this incident, in so far as it implicates any of the defendants, and to develop any additional information concerning the activities of the defendants from approximately March 1 through March 9.

C. Response of White Northerners to Plea for Help from Dr. Martin Luther King, March 9, 1965.

1. Harassment of White Ministers by Cook, Stanley Hoggle, and Billy Dowd Edwards.

Edwards has told the FBI that he, Stanley Hoggle, and a man named Bill drove around with Elmer Cook in his cadillac on the afternoon of March 9, 1965. Stanley Hoggle had a .38-caliber revolver stuck in his trousers and a smaller pistol in his pants pocket. Edwards said that Hoggle gave a night stick or club to Cook. He said that Cook was driving the car and had a pair of brass knuckles on his right hand. He said they were driving around Selma and that he, Edwards, was blowing a bugle at any of the ministers and "other outsiders" that they saw on the street.

Even if Edwards were to testify to the same information contained in his statement, there is some problem concerning the federal right involved. A large number of the ministers and other outsiders were in town to participate in a march to Montgomery that was advertised as similar to the one conducted March 7. However, Judge Johnson had prohibited any such march on March 9. We could argue, I suppose, that the ministers were in town for the purpose of exercising the federal right to encourage Negro voter registration.

Even if this incident does not in itself involve a violation of 241, Edwards' testimony should be considered relevant evidence of Cook's and Stanley Hoggle's state of mind.

I believe we should request the FBI to develop this incident further. Edwards could too easily claim the Fifth Amendment (either because of 18 U.S.C. 241 or local disturbing the peace ordinances) or simply refuse to tell the truth.

2. Attack on Van of Medical Committee for Human Rights.

Floyd Groom has admitted his participation in the attack on the MCHR van, which occurred minutes before the attack on Rev. Reeb. If he were to talk, he could probably identify the other participants. There were 2 others involved.

A nurse who was in the van, Linda Durgan, says a photograph of R. B. Kelly shows a resemblance to one of the attackers.

A doctor who was in the van, Richard Hans Knecht, stated that a photograph of William Stanley Hoggle was that of a man about the age and general build of the first man who approached the van. He thinks he might be able to identify at least the first man who approached the van if he could see him in person.

The federal right involved in this incident could be Title II of the Civil Rights Act of 1964. The white persons in the van had just eaten at Walker's Cafe, a Negro restaurant, prior to the attack.

Identifications are very weak. Groom is unlikely to talk.

3. The Attack on Rev. Reeb, Miller and Olsen.

The three white ministers were all in Selma in response to Dr. King's call. They had all eaten dinner at the Negro restaurant prior to the attack.

I believe Mack Arthur Brown identified a picture of Stanley Hoggle as having been a person who looked in the window of Walker's Cafe while the white ministers were inside. I don't have the FBI report with his interview. In any event, he denied it on the stand in the state case.

D. Recommendation

I believe that the case is strong enough to require prosecution. We should at least be able to obtain indictments, because the balky witness problem will not be so acute.

In the trial itself, it will be difficult to implicate R. B. Kelly. Apparently, he was not involved in the conspiracy prior to the night of March 9. It may be difficult to show even that

he participated in the two events that night. Unless Floyd Groom talks, the strongest available evidence against him is Stripling's statement. Even Groom is not positive of Kelly's identity.

Namon O'Neal Hoggle will also be difficult to convict. He was not with Cook and Stanley Hoggle on March 6 or the afternoon of March 9. We do not know whether we can prove he was with them on March 7. Stripling is not sure of his identification of O'Neal Hoggle. Groom and Kelly identify him, but may not talk. Edwards says he saw only Stanley Hoggle and Elmer Cook chasing the ministers, although he says immediately after the attack O'Neal Hoggle came into the Silver Moon Cafe with the other two.

The conspiracy evidence against Cook and Stanley Hoggle is strong.

In my opinion, a fair-minded juror would say there is no reasonable doubt as to the guilt of any of the four defendants. No fair-minded person would deny the guilt of Elmer Cook and Stanley Hoggle.

AUG 24 1965

John Doar
Assistant Attorney General
Civil Rights Division

July 29, 1965

CWQ:mhs

Charles W. Quaintance
Attorney
Civil Rights Division

#1-047-40

Reeb Murder Case

DJ 144-3-399

In a memorandum dated April 12, 1965, you asked me to review this case from the standpoint of state and federal prosecution.

This case involves state indictments for murder against Elmer L. Cook, William Stanley Hoggle and Namon O'Neal (Duck) Hoggle and federal conspiracy charges against those three and R. B. Kelley. The charges arose from the incident of March 9, 1965, in Selma that led to the death on March 11 of the Reverend James Reeb. The state charged Cook, Kelley, and the Hoggles with first-degree murder and obtained indictments against Cook and the Hoggles.

4/12/65
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I. Summary of Evidence tending to prove that the defendants committed the act.

A. Eyewitnesses.

1. Basil Smith - This drunk (66 arrests by Selma Police Department since 1951 - most for drunk and disorderly) appears to have been an eyewitness, but says he was too drunk to remember anything from the night of March 9. Patrons of the Silver Moon Cafe indicate he made incriminating remarks against Cook that evening, but he has given no information to authorities.

2. Edgar Stripling - He was working in the Silver Moon Cafe March 9 and says he saw Cook, Kelly, and perhaps Duck Hoggle chasing some white persons. He thinks he saw Cook slug one of the victims with his fist, and he thinks Cook and Kelley kicked a victim. Records of the Veterans Administration reflect that Stripling is permanently, totally disabled and that he is 100% incompetent due to "schizophrenic reaction, hebephrenic type." Hebephrenia is a schizophrenic reaction characterized by silliness, delusions, and hallucinations.

cc: Records ✓

3. Floyd Groom - Groom is a close friend of Cook, Kelley, and the Hoggle brothers. He says he would deny even the information he did give to the Selma police. That information was that he saw the subjects - Cook, Kelley, and the Hoggles, meet three persons who had come from Walker's Cafe (where the Rev. Reeb ate) at the alley between Washington and Franklin Streets on Selma Avenue (one-half block from the assault). He says he saw Cook hit one of the men. Groom claims the victims were in a bus that they had driven from Walker's to the alley. He thinks one of the three persons was a blonde girl and that the other two were Negro males. Groom claims to have been diagonally across the street from the Silver Moon Cafe, on the corner of Selma and Washington. It may be that he actually did not observe the assault on Mr. Reeb, but the assault on the medical man (see C.3, below). However, the time Groom gives for the incident, 7:30 P.M., which could easily be wrong, coincides with the assault on Mr. Reeb.

4. George Hamm - observed the assault from across the street but claims it was too dark for him to tell even the race of the individuals involved.

5. Billy Dowd Edwards - Edwards was inside the Silver Moon Cafe at the time of the incident. When he heard some shouting, he looked out the door and saw Cook and Stanley Hoggle running and punching at two or three individuals. All persons involved "just flashed by" the door. Edwards places Kelley, with whom he had been drinking, outside his sight at the time of the assault, but says Kelley returned to the table shortly afterward and was not breathing hard.

6. R. E. Kelley - Kelley was sitting with Billy Dowd Edwards and another person in the cafe. While they were drinking beer, Kelley claims, he heard a commotion outside the cafe, got up and walked to the door. He says he saw Cook and the Hoggle brothers running to the corner of the building. When Kelley opened the door to the cafe, he saw two men on the sidewalk. Cook kicked one of the men. Kelley gave two signed statements, both to the Selma police in the presence of two FBI agents. Both statements have Cook kicking a man on the sidewalk. Only the second has the three subjects running. Kelley was arrested, both by the FBI and by the city. The Dallas County Grand Jury refused to indict him.

7. Orloff W. Miller - The Rev. Miller stated in the first interview that he could probably not identify any of the assailants. Upon being shown pictures, he positively identified Cook as one of the men who had come at him, Mr. Reeb, and Mr. Olsen. He could not state whether Cook was involved in the attack. He also thought Duck Hoggle looked like a person who came at them. Miller identified Stanley Hoggle as a man he had seen in Selma.

8. Clark Olsen - From pictures, Mr. Olsen identified all four subjects as having been involved in the attack on himself, Miller and Reeb.

B. Admissions by subjects.

1. Reaction to accusation by Basil Smith

Billy Dowd Edwards, in a signed statement, says that Cook and the two Hoggles were in the cafe, left about 30 minutes (in a later statement Edwards indicated he saw Cook and Stanley Hoggle chasing and hitting two or three persons), and then returned to the cafe. Edwards proceeds, "an old drunk we call Smitty [Basil Smith, see A.1. supra], came in and said "I would kill any son of a bitch who would beat him like that!" R. B. Kelley, who was sitting with Edwards, stated, "...a drunk known to me as Smitty came into the cafe and started mumbling something to Duck Hoggle... The best I can remember, Duck Hoggle told Smitty if he did not stop running his mouth he was going to knock hell out of him."

If the statements of Kelley and Edwards on this event could be integrated (e.g., if Edwards heard Cook or Hoggle say what Kelley thinks he heard Hoggle say), the result would be admissible against Cook or Hoggle or both as an admission. As McCormick says,

If a statement is made by another person in the presence of a party to the action, containing assertions of fact which, if untrue, the party would under all the circumstances naturally be expected to deny, his failure to speak is circumstantial evidence that he believes the statements to be true and his conduct is thus receivable against him as an admission

of such belief...[;] an equivocal or evasive response may similarly be used against him on this theory...

Obviously, proof of the party's conduct requires proof of the statement itself to which he has thus reacted. The statement technically avoids the hearsay objection, since it is not offered as evidence of the truth of its assertions, but merely as giving meaning to the defendant's silence or evasive reply.

McCormick, Evidence, § 247.

An admissibility problem might arise because of the damaging nature of Smith's alleged statement. The jury must not be allowed to consider any report of Smith's accusation to be taken as evidence that Cook or the Hoggles assaulted Mr. Reeb. A close examination of cases in this field would be a necessary precaution before trial.

2. Admission of presence in the area at the time of the assault

The attack on Mr. Reeb probably took place between 7:15 and 7:30 P.M. on March 9. Mr. Miller gives the time as from shortly after 7 P.M. (in his first statement) to around 7:15 (in his second statement). The Selma Police Department learned of the incident at 7:58 P.M. This was after Miller and Olsen had taken Reeb two and one-half blocks, obtained an ambulance (from Miller's funeral home, which is one-half block from the place Miller and Olson had taken Reeb), and taken the ambulance with Reeb to Burwell's Infirmary (a five-minute drive).

Hoggle puts himself, Cook, and Duck Hoggle, together, in a shop across the street from the Silver Moon Cafe from 6 or 6:30 P.M. until about 7:30 P.M. when he says they went to the Silver Moon Cafe.

3. ^A Damon Hoggle's remark to Eugene Thomas

Gary Rowe and the three Klan members charged with murdering Mrs. Liuzzo stopped at the Silver Moon Cafe Thursday, March 24. Rowe says that someone came up to Eugene Thomas and said something to the effect, "We did our job; I hope you do yours." Rowe says this person was

referred to as "Duck" (Hoggle's nickname) and also that Hoggle was later pointed out to him as Hoggle.

There is no indication that Cook, Kelley, or the Hoggles ever belonged to the Klan.

C. Activities of subjects prior to the attack on Mr. Reeb

1. Criminal records - Cook has been convicted in Selma 17 times on charges of assault and battery. The greatest fine and sentence was \$104 and 60 days.

This record could not be proved except in the unlikely event Cook took the stand.

The other defendants have less noteworthy records.

2. Car smoke at the courthouse

On Saturday, March 6, Cook and Stanley Hoggle took an old automobile to the corner of Lauderdale and Alabama, the location of the Dallas County Courthouse. Cook raced the motor, while Hoggle poured a substance on the motor that caused considerable exhaust smoke.

This incident occurred during a demonstration on behalf of civil rights conducted by the Reverend Joseph Ellwanger and other white citizens of Alabama.

A judge should probably let in evidence of the courthouse affair. It tends to prove that Cook and Stanley Hoggle hate white persons participating in the civil rights movement. See McCormick, § 157, p.330; see also Dunson v. State, 43 S.E. 2d 504 (Ga. 1947) (trial for wife-murder; previous acts of violence against wife admissible to show malice). It might even be considered evidence of a continuing plan to harass white civil rights sympathizers (see McCormick, § 157, p.328), but it appears to have been not so much a part of the plan as a trigger for the plan. At least, Mr. Baker thinks the subjects caused the excess smoke because Sheriff Clark urged them to (one of the subjects told Baker that Clark asked him to do it) and that it was the thrill this gave them that caused the Reeb incident.

3. Medical Committee for Human Rights

Between approximately 6:30 and 7 P.M., March 9, perhaps 45 minutes before Mr. Reeb was attacked, 3 white

males assaulted representatives of the Medical Committee for Human Rights. Two male white doctors and several ladies, both white and Negro, had eaten together at the Listonclay Cafe, a Negro cafe close to Walker's Cafe where Mr. Reeb ate. When they left the cafe, they went to a Ford Econoline Van which the MCHR was using as a medical van. It was parked on Washington Street, between Walker's Cafe and the Silver Moon Cafe. As the van was pulling out of its parking place, three men came from the direction of the Silver Moon Cafe. They tried to open the doors, but the doors were locked. They then beat on the doors of the van with their fists and shouted imprecations such as, "You damn nigger lovers." The driver, Dr. Jack Geiger, positively identified a picture of Elmer Cook as being a picture of one of the three men. He thought a picture of R. B. Kelley was a picture of another assailant. Other passengers gave similarly uncertain identifications of Kelley. The other doctor gave a hazy identification of Stanley Hoggle as the third man.

This evidence should be admissible both on the theory that it tends to prove a plan to attack white civil rights sympathizers and on the theory it shows a hatred of white civil rights workers on the part of Cook and possibly Kelley and Stanley Hoggle. See McCormick, § 157.

D. Physical evidence

The autopsy reveals a massive blow to Mr. Reeb's skull. However, the club has not been found.

E. Evaluation of Evidence

1. There is no solid witness.

The two witnesses who apparently saw the most are Smith, a drunk, and Stripling, a hebephrenic schizophrenic. Smith will not even talk.

Mr. Miller and Mr. Olsen observed very little, as they were protecting themselves during the attack. In addition, white Northern ministers would be ineffective witnesses.

Hamm observed the attack, but is of no assistance on identification.

Kelley, Groom, and Edwards were either involved or are too friendly with persons who were involved to be strong witnesses. Kelley's story is probably fabricated as to his location; he could hardly have been in the doorway. His friend Edwards, who was looking out the doorway, would surely have seen him and would be happy for the chance to state that Kelley was inside the cafe when the attack occurred. What Kelley describes is probably reasonably accurate, but McLean Pitts could discredit his story as that of an accused trying to save his skin. Groom might not testify at all, and if he did would surely be evasive and misleading. Edwards is perhaps the strongest witness, but his story might be discredited by references to his friendship for Kelley. Also, he obtained only a fleeting glimpse of the incident, a fact which would be used to discredit the identifications.

2. Admissions not conclusively damaging

Rowe's identification of Hoggle is not positive, although the remark is highly incriminating. Unfortunately, it puts Rowe in a bad light, intimating that he knew death was in the wind.

The exchange between Smith and Cook and the Hoggles can be explained away by those who wish to disregard it. Smith was simply a nuisance, one could say, and Cook and the Hoggles shooed him away. In addition, the process by which a lawyer concludes the exchange between Smith and the subjects involves an admission may be too intricate for even fair-minded jurors.

3. Prior and subsequent actions by subjects not strong enough

The incident of March 6 at the courthouse involves no problem of identification, but would be of little probative value.

The incident concerning the medical van is of real probative value, but there is only one positive identification. In addition, it probably involves Kelley, a fact that, if known, would hurt Kelley and Edwards as witnesses to the attack on Mr. Reeb. Pitts could make Kelley's involvement known.

4. The physical injuries are shocking, but club never found

There can be no question of a playful tap. Mr. Reeb's skull was practically caved in. Unfortunately, the club was never found.

II. State Prosecution

Blanchard McLeod is the circuit solicitor for Dallas County. He presented the case to the grand jury and obtained first degree murder indictments against Cook and the two Hoggles. The trial is scheduled for October 1965. According to the FBI, McLeod pleaded with the grand jury to return the indictments in order to take some of the heat off Selma. McLeod practically assured the grand jury, again according to the FBI, that there would be no convictions.

I see no substantial chance that McLeod would put his heart into this case. Only a special prosecutor, or at least a new county solicitor, would press a state prosecution vigorously.

The evidence convinces me, at least, beyond a reasonable doubt that Cook killed Mr. Reeb and that Kelley and the Hoggles were involved. However, there are enough legitimate holes in the case that, even with vigorous prosecution, a southern jury could vote not guilty without making its conscience writhe too much. I doubt that a special prosecutor would be able to overcome local antagonism. I don't know the possibility of getting a county solicitor or, if one is appointed, getting him to take over McLeod's prosecutive duties. The case is so weak (the chief witnesses are either alcoholic, schizophrenic, white civil rights sympathizers, or tainted with suspicion themselves) that I doubt we should risk interfering with the state prosecutive process in an attempt to obtain a vigorous prosecutor. If Blanchard McLeod approaches the FBI or the Department for assistance, I think we should provide it perhaps to the extent we assisted Gamble. I think we have little to lose; saving the evidence for a federal trial makes little sense, since there is not a strong federal case.

As to whether we should approach McLeod, I think we should try it if he has not approached us within three or four weeks of the trial. It is true that we might only

antagonize him, but I think we have little to lose; he does not plan to proceed with a prosecutor's attitude anyway. The approach could probably be arranged most discreetly through the FBI, in the form of questions as to whether there is any way we can help. Of course, McLeod hates the Department, but I think a new person - or one who has not offended him deeply - might get along with him, so long as Selma residents did not know of the liaison.

III. Federal Prosecution

The application of 18 U.S.C. 241 to this case is tenuous. There seems to be little doubt that the reason for the attack was that white persons were sympathizing and fraternizing with Negroes. I see no federal right to be such a person. Since the plea for support from Dr. King that caused Mr. Reeb to come to Selma was connected with voting rights, however, I suppose we could argue that a 241 violation occurred.

Because of the weak evidence in the case, its tenuous legal underpinnings, and the fact that state authorities proceeded at least to indictment, I believe we should not press for a grand jury or for a trial in this case. If Blanchard McLeod absolutely refuses to press for conviction, perhaps we should seek indictments. In any event, it seems to me we should first attempt to jack up McLeod.

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RECORDS ADMINISTRATION OFFICE**

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ISSUE

STATE'S RIGHTS ADVOCACY

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the Article Ten of the Bill of Rights, Constitution of the United States.

VOL. 13, No. 10

MONTGOMERY, ALA., OCTOBER, 1966

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Council Directors Endorse Wallace

That the overwhelming majority of the Montgomery Citizens Council Directors would not be for Mrs. Wallace was a foregone conclusion. However, in order to keep the records straight, the directors were polled and the overwhelming majority voted in favor of supporting Governor and Mrs. Wallace. The reasons for this are so

obvious that it would seem that an explanation would not be necessary, however it was felt that it should be made anyway. 1. The first and most important reason why the Council is backing Wallace is that, he stands for our principles which can be summed up in four words, States Rights and Radical Integrity.

2. The Wallace record as

Governor of Alabama has not been equalled by any Governor in recent times, if not in Alabama's entire history. His record includes constructive work such as building of the Junior College and Trade School system, expanding the public school system, improvement of state docks and other works, the attraction of vast amounts of industry to the state, and

keeping the state government financially solvent and honest, raised him to a stature unequalled by any other person in the state.

3. Governor Wallace is recognized as the national leader of conservatism in the United States. He is probably the best known Governor in the United States and is also known and respected throughout the world. His entry into the Democratic primaries in Wisconsin, Indiana and Maryland and his speaking tour throughout the country.

4. Governor Wallace's uniqueness as an individual. He is a person of great imagination and courage. His sense of the dramatic, and his ability to think on his feet have made him a match for all comers on television, radio, and the press throughout the country.

5. Governor Wallace is the only Governor of Alabama who has supported the Citizens Council and who has spoken at Citizen Council meetings in Alabama and other states. The Council believes in standing by those who stand by the Council. Much more could be said in

Jim Martin Visits In Prattville

From the Prattville Progress
Oct. 6, 1966

Jim Martin came to Prattville last Thursday on a hand-

For many years Southern Powell to have the power to control the selection of textbooks and Congressmen have fought against federal aid to education because they feared money. Chairman Powell said, "One of the most important

appeared in American School and University. It is printed below.

'New Societal Concepts for Textbooks'

QUESTIONS REGARDING DEATH OF REVEREND REEB

1. Is there no one in our government with enough courage to accuse the "Civil Rights" groups of their wrong doings, even when evidence points to their premeditated and deliberate murder of Reverend Reeb?

2. Can you reconcile the testimony of Dr. Dinkins (Negro), that he observed no lacerations, could demonstrate no fracture on palpitation of the skull and declared Reverend Reeb's pupillary reflexes normal with no sign of brain pressure, one hour after his altercation, but when Reverend Reeb arrived in Birmingham three and one-half hours later, his head had been beaten to a pulp, as testified by neurosurgeons?

3. Who was desperately in need of a martyr at this particular time?

4. Why was there inexcusable delay in getting Reverend Reeb to a Birmingham hospital?

5. Why did it take so long to transport Reverend Reeb from Amelia Boynton's SNCC Office to the Burwell Infirmary, just a few blocks away when the ambulance was parked in the same block as the SNCC office?

6. Why did the companions of Reverend Reeb say the ambulance had a flat tire, when reputable witnesses testified that the tire was not flat?

7. Why did Amelia Boynton's SNCC Office send Reverend Reeb to an old, unaccredited infirmary when there were three fine, modern hospitals available in Selma? (Dr. Dinkins, Reeb's attending physician, was, at that time, staff member of the Good Samaritan Hospital, the most modern hospital in Selma.)

8. How do you reconcile Reverend Reeb's slight injury before he arrived at the SNCC Office of Amelia Boynton, and a crushed skull by the time he arrived at the Birmingham hospital.

9. Why did the X-ray of Reeb's skull ordered by Dr. Dinkins conveniently disappear?

10. What was the news media hiding? The press and TV photographers covered the Reeb murder trial in droves, eager to pounce upon the local innocent defendants. Why this silence?

3 January 1966

Dear

I had a chance to observe your letter on the Weekly Bulletin Board, in reference to the Reeb case. We people in Selma, Alabama appreciate your interest and I assume you are interested or you wouldn't have taken the trouble to write. Since you have gone to that trouble, I am going to the trouble to enlighten you. It is no crime to be uninformed, but it is a grievous fault to stay uninformed when you have the opportunity to look behind the various walls of censorship that the news media have erected around Selma.

I do not think it is a reflection on you. I do not think hard of you that you are unaware of the facts. It is more a reflection on the type of news

media we have in the world today. I am intimately acquainted with the evidence in this case (Reeb). I received permission and made a tape recording of the entire trial. I have listened to every word of evidence by all the witnesses. There was not enough evidence actually to even make a case against the accused. The presiding judge to be fair to the defendants should have instructed the jury to return a verdict of "Not Guilty." These defendants should never have been tried — no more than you; your brother, if you have one; your father; or your son. If the defendants had been Civil Rights agitators, there would never have been a case. This persecution of these defendants was a price they paid to satisfy the uninformed public who did not have the slightest idea of what actually happened in this particular case.

You must remember this: Selma was the focal point for the massive agitation. Pressure was on to make an arrest and make it quickly. The city police, not the Sheriff's Department, did make an arrest. As a matter of fact, they made an arrest within 24 hours—but they did not investigate the facts of this case as they should have — and they arrested the wrong men.

Briefly, the trial showed essentially this: Reverend Reeb and two companions had an altercation with three men. One of Reeb's companions testified an hour later to an officer that he didn't know whether the men were white or black. The other minister testified that the only thing he could remember was a light tan zipper jacket in the altercation. It was dark. An eye-witness by the name of Mr. Ham, who was walking across the street at the time of the altercation said this: "There was a coming together of six men and an instant separation. It lasted ten seconds, maybe 15 second, maybe 20 seconds, and the six men separated and disappeared."

After the altercation, according to the ministers (Reeb's companions), Reeb and the two ministers walked three blocks to the Boynton Insurance Agency which was headquarters for one of the agitating groups (or you might call them Civil Rights Workers).

Now to give you a little background. King was in need of a martyr. The various groups preaching racial hatred such as SICK, SNICK, CORE, and the NAACP and others had spent thousands upon thousands of dollars in a vain attempt to produce a martyr. They were unable to produce such a martyr after weeks and weeks of the most terrible and perilous agitation; that a group ever inflicted upon a formerly quiet, peaceful, law-abiding city. I give you this background, and it is not slanted or biased—it is merely factual. I am not saying it is right or wrong, but it is true.

When Reeb and his companion arrived at Amelia Boynton's insurance office, on foot, all three men were conscious and able to converse. (One other little detail—Selma has three fine hospitals, very modern. The most modern of all, and best equipped, is a Negro hospital—the Good Samaritan). Arrangements were made at that time to take the three ministers to the Burwell Infirmary. The Burwell Infirmary is not even classified in the modern sense as an up-to-date hospital, but is an old, wooden structure that reminds me of a run-down residence. It is hard to put the finger on exactly who plotted the destruction of Reverend Reeb from this point on, but it is not too difficult to see who would benefit from Reverend Reeb's death.

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Now getting back to the trial, when Reverend Reeb and his companions arrived at the Burwell Infirmary, conscious and able to converse, Dr. Dinkins (Negro) observed a little blood on the temple of Reeb. On the witness stand, he testified that he thought there might be a laceration, so he wiped the blood away. However, when he wiped the blood away he could not find any laceration. There was only a small bruise. Dr. Dinkins examined Reeb's eyes for pupillary reflex. That was to be sure there was no brain pressure or concussion; when there is brain pressure or concussion one pupil is larger than the other, which by this

time could have been seen at once. This examination took place at 8:30 P.M. and Reeb's reflexes were considered normal in this test. The alteration had taken place at 7:30 P.M. one hour earlier. Dr. Dinkins further testified that he made a palpable examination. That is, he explored the small bruise he found, with his hands. He stated that he could not demonstrate a fracture. He also testified that he ordered an X-ray. On the witness stand, he seemed to be reluctant to admit that the X-ray had disappeared. Under more intense cross examination, he reluctantly admitted the X-ray was no longer available. Was there a deliberate reason for this X-ray's convenient disappearance?

Did a party or parties inflict the death wound shortly after this time, or 15 minutes later, or one hour later? That is for your speculation. However, for reasons that were not made perfectly clear, it was decided that Reverend Reeb should go to Birmingham. Now, Birmingham is 100 miles away from Selma.

The three ministers rode back to Amelia Boynton's insurance office (away from Birmingham). Then, sometime after that, they started toward Birmingham in a red ambulance. Were they in a hurry to start this 100 miles? A witness testified at the trial that he followed this ambulance be-

cause the light was on in the back and he could see a white man and others inside. He was bewildered because they were going away from Selma and someone was lying on the stretcher — the hospitals were in Selma. The ambulance was making about 15 miles per hour on a wide-open highway. A Mr. South (the witness mentioned above) followed this ambulance, looking through its glass door because the lights were on. The driver of the ambulance signaled for Mr. South to pass, but Mr. South was a curious man and he wanted to see what was going on—so he did not pass. The ambulance proceeded at the same rate of speed until it got three miles from Selma on the Birmingham Highway — then it stopped and the driver again signaled for Mr. South to pass. Mr. South did not pass. He stopped, too.

The ambulance then turned around and at the same slow rate of speed came back these three miles toward Selma. Mr. South followed. He stopped at a filling station one block short of where the ambulance next stopped. The filling station operator was just closing. Mr. South asked the operator to call the police. He said something funny was going on. If somebody were sick, they ought to be going toward the hospital, not away from it. Mr. South couldn't understand it. He went to where the ambulance

(Continued on Page 8)

Powell Aide Says Integrated Education Inferior

Livingston Wingate a former aide to Controversial Congressman Adam Clayton Powell, stated that "We must no longer pursue the myth that integrated education is equated with quality education."

Wingate was Executive Director of New York City's Graft-Ridden Harry Act, an Anti-Poverty Program in Harlem sponsored by Adam Clayton Powell.

Wingate further emphasized his admission that desegregation is a failure by proposing the creation of special teacher institutes to train people for the specific task of teaching in ghetto schools. In liberal terminology "ghetto" means a Negro slum!

A SYSTEM OF INDEPENDENT PRIVATE SCHOOLS IS THE SOLUTION TO THE SCHOOL INTEGRATION CRISIS.



PAUL LOWERY
Republican Candidate For
STATE SENATE
MONTGOMERY COUNTY
PLACE NO. 2

YOUR VOTE AND INFLUENCE WILL BE APPRECIATED
• 8 (Pd. Pol. Adv. by Paul Lowery, Montgomery, Ala.)

WALKER HOBBIE, Jr.
DEMOCRATIC NOMINEE FOR
HOUSE OF
REPRESENTATIVES
MONTGOMERY COUNTY
Place No. 3



YOUR VOTE AND INFLUENCE WILL BE APPRECIATED
• 8 (Pd. Pol. Adv. by Walker Hobbie, Jr., Mtgy, Ala.)



J. J. (Junie) PIERCE

Solicits YOUR vote and active support
for Election to

STATE SENATE
Place No. 1
Montgomery County

HONESTY — INTEGRITY — EXPERIENCE

Subject: Action of the General Election November 8, 1966
• 8 (Pd. Pol. Adv. by J. J. Pierce, Montgomery, Ala.)

Reverend Reeb

(Continued from Page 4)

lane was parked. He got out of his car and observed the occupants of the ambulance. He asked what the trouble was and if they needed help, and why didn't they take the man to a hospital. The ambulance at this time was stopped in front of the WGWC Radio Station. The lights were fairly bright there. Mr. South asked them again what they were waiting on and why they didn't take the man to a hospital if he were hurt. Someone in the ambulance then said, "We got a flat tire — the left rear." Mr. South, who was a very persistent man, walked to the rear of the ambulance and looked at the tire — it didn't look flat. He then felt both right and left rear tires from the pavement all the way around the entire tire and back to the pavement. Mr. South testified that there was no flat tire.

Ace Anderson, the driver of the ambulance, was in the radio station calling for another ambulance. Mr. South, who was friendly with Ace Anderson, asked him if he needed help. Ace said they were waiting for another ambulance. After some time, a second ambulance arrived. But did they leave? Why didn't they leave after they got the new ambulance? They still sat 30 minutes. The persistent Mr. South then asked them, "For God's sake, take this man to a hospital if he needs help. Don't sit there and let this man die. Do something!" One of the attendants mumbled something about the signal light not working. Mr. South then proceeded to get inside of the ambulance, pick up two wires, and stick them in the cigarette lighter. The light then worked. Then the still persistent Mr. South said, "What are you waiting on now?" They said, "We are waiting on Dr. Dinkins' car. He has decided to follow the ambulance in his car instead of riding in the ambulance."

On the witness stand the two ministers were asked if anything had been done to aid Reverend Reeb. "Did you elevate his feet? Did you turn him on his stomach to keep him from strangling in his own vomit?" (Rev. Reeb later contracted pneumonia which developed from vomiting and food particles from the vomit lodging in his lungs. This was a contributory cause of death according to Birmingham authorities.) Did you give him oxygen? Did you use an aspirator? Did you do one thing to relieve this man?" Of course the answer was no by all witnesses, including Dr. Dinkins. (One minister testified earlier that his wife was a trained nurse so it was expected that he would have some knowledge of first aid.) They had merely thrown Reverend Reeb in an ambulance like a sack of potatoes and then waited — and waited — and waited — delay after delay after delay — inexcusable delays that you cannot justify under the evidence shown in this case.

Meanwhile, they sent the

first ambulance off after Dr. Dinkins' car. (Remember, this ambulance was supposed to have a flat tire.) No one had changed a tire on the ambulance and the ambulance did not bump when it left.

Meanwhile, the filling station operator, who was asked by Mr. South to call the police, decided he had better see what was happening before he put in his call. He, too, had asked what the trouble was when he arrived on the scene. No one would talk or even answer. He said, "If that man needs medical help, why don't you take him to a hospital?" No one answered. The filling station operator then said, "If that man is hurt, why don't you call Billy Bobo (Bobo had a fast, modern ambulance). Billy Bobo could get this man to Birmingham while you are waiting." Finally, someone said, "We are waiting on another ambulance. This one has a flat tire." The filling station operator then took his flashlight, walked around the ambulance and examined each tire carefully. There was no flat tire, according to his testimony. He had been in the tire business for over 18 years. He knew what a flat tire looked like.

Finally, Dinkins' car arrived and they started in the direction of Birmingham. They arrived at Birmingham at 11 p.m. 3½ hours after the altercation. By that time it was already too late, according to the medical testimony. Dr. Graham, foremost brain surgeon in this state, testified that one hour's difference might well have saved this patient's life.

The ministers testified no one gave Reeb oxygen along the way; they did not use an aspirator; they did not turn him on his stomach to keep him from strangling in his own vomit; they did not do one thing. Now, remember, Dr. Dinkins, the Negro doctor, testified that he could demonstrate no fracture by feeling with his hand (palpate examination); that he saw no laceration. Yet, when this man arrived in Birmingham, his head was literally beaten to a pulp. This foremost brain surgeon, Dr. Graham, testified that he had a severe, compound comminuted fracture; meaning, that you could take your hand and feel the bones move — that some of the bones were crushed and separated from the skull. This fracture was 2½ inches in diameter. In addition to this, there was a linear fracture that was so severe that you could take a knife or a scalpel blade and put it in between it — complete separation. This fracture extended across the front of the skull into the right eye area. Another linear fracture extended from the injury on the left side of the temple back across the skull into and crushing the pituitary area at the base of the brain. One of the main arteries to the brain was severed and at surgery the neurosurgeon testified that he found massive hemorrhage from this. Bone fragments were embedded in the brain and an area 2½ inches in diameter was debrided. Also, the

attending neurosurgeon at Birmingham stated that there was a laceration about 2 inches long across the surface of the bruised area of the skull. Dr. Argier, Dr. Allen, and Dr. Graham, three neurosurgeons, testified to the same thing. Two autopsy experts testified the same thing. This was the severity of the injury of Reeb's when they reached Birmingham. When this injury was initiated — blow or blows were struck at the head of Reeb — there was a pattern of force distributed throughout his brain which was demonstrated at autopsy. This is not somebody's opinion, but a physical fact — they took the brain out and they looked at it and they saw areas of severe hemorrhage and contusion that went all the way down to his pituitary in the base of his brain, all the way over to the right side. Dr. James Argiers said that the direct blow was so severe that the patient who received that blow could not reasonably be expected to resume any time soon any functional life. Yet the attending physician in Selma had said, "I saw no laceration," and could not feel a fracture by palpation.

There were stress lines running from the fracture in the temple around his head to the base of his neck. There were dead brain cells all the way to the base of the brain, showing that this man's head had been literally crushed. Earnest Reeves Tucker — pathologist — performed an autopsy and examined Reeb and testified that the fracture could have been easily palpated (felt) — that the fracture was in small pieces. Yet, Dr. Dinkins could demonstrate no fracture. How do you reconcile this, or can you reconcile this, or can you reconcile this? As a matter of fact, you cannot. This wound of Reeb's was not the same wound that he had in Selma, as when he arrived in Birmingham. These are not my suggestions or conclusions. These are the conclusions of the medical evidence which you cannot dispute.

Now, this is not my testimony, but it is the testimony of the foremost neurosurgeons, (Dr. Argiers, Dr. Allen, and Dr. Graham,) and Dr. Dinkins.

Could any man have arisen from the sidewalk after such a blow or blows, walked three blocks, and one hour later shown no signs of brain damage?

Dr. Graham, who operated on Reverend Reeb, was asked this hypothetical question: "If a patient had a wound such as you describe in the case of Reverend Reeb, could he have got up off the sidewalk and resumed consciousness and walked three blocks?" The answer was a firm, "No."

If you can believe the medical evidence in this case brought out on the trial, then when did this second wound (or wounds) occur? Obviously it had to occur sometime between the time Reverend Reeb left the scene of the altercation and headed toward Amelia Boynton's office, and the time

he arrived in Birmingham.

The very best one can say is that someone let this man die, knowingly and deliberately, but the evidence points to the fact that someone murdered this man — knowingly and deliberately for propaganda purposes. Who do you think needed such a martyr?

Now, sir, I would like to add this thought: Do you have a brother, a father, or a son? Would you like to have him convicted and sent to the electric chair to please Mr. King, the Federal government, or the Justice Department, or the news media of the world? Do you have any friends that you would like to sacrifice for the sake of propaganda?

It is not my intention to be sarcastic, but I am asking you these questions because you appeared to be genuinely concerned and interested.

Yes, somebody murdered Reverend Reeb, but it wasn't the defendants. The circumstantial evidence points to other people, but other people were not being tried. Only the defendants were being tried. Self in the place of the defendants in this case and assume that you are innocent, you may get a true feeling of the terrible persecution that the world has inflicted upon a peaceful, formerly quiet, law-abiding city.

Sincerely,
Sol H. Tepper
P. O. Box 474
Selma, Alabama.

P.S. I have taken a lot of trouble to explain this to you and I hope you will give it your most thoughtful and serious consideration. Maybe you may have an idea of who the guilty ones are. I believe I have an idea!

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